

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JACOB MORGAN,

Plaintiff(s),

V.

BJ'S RESTAURANTS, INC.,

Defendant(s).

Case No. 2:25-cv-00539-CDS-NJK

REPORT AND RECOMMENDATION

On March 25, 2025, the Court screened Plaintiff's complaint and ordered that he file an amended complaint. Docket No. 5. The Court noted therein that the initial complaint had alleged issuance of a right to sue letter, but it had not attached one. *Id.* at 3. As such, the Court ordered that “[a]ny amended complaint must attach a copy of a right to sue letter.” *Id.*¹ Plaintiff filed an amended complaint that does not allege receipt of a right to sue letter, let alone attach a right to sue letter. Docket No. 7. On April 14, 2025, the Court ordered Plaintiff to file, by April 28, 2025, a notice attaching his right to sue letter or a notice that he has not received a right to sue letter. Docket No. 8. The Court therein warned that “**If failure to comply with this order may result in a recommendation of dismissal.**” *Id.* at 1 (emphasis in original). Plaintiff has not filed a copy of a right to sue letter or otherwise responded to this order.

¹ In an employment action, a plaintiff must administratively exhaust his remedies before filing suit. See, e.g., *You v. Longs Drugs Stores Cal., LLC*, 937 F. Supp. 2d 1237, 1248-49 (D. Haw. 2013). Federal subject matter jurisdiction is lacking when the plaintiff did not exhaust his administrative remedies. *Lyons v. England*, 307 F.3d 1092, 1103 (9th Cir. 2002). The plaintiff must attach to his complaint the right to sue letter issued in relation to those administrative proceedings. See *Delaney v. Lynwood Unified School Dist.*, 2008 WL 11338726, at *3 (C.D. Cal. Apr. 7, 2008).

1 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
2 prejudice.

3 Dated: May 6, 2025

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5 Nancy J. Koppe
United States Magistrate Judge

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7 **NOTICE**

8 This report and recommendation is submitted to the United States District Judge assigned
9 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
10 recommendation must file a written objection supported by points and authorities within fourteen
11 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
12 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
13 F.2d 1153, 1157 (9th Cir. 1991).

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